

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN PADILLA,

Plaintiff,

-vs-

Case No: 1:07-cv-03638-PKL

MAERSK LINE, LTD.,

Defendant.

/

PLAINTIFF'S MOTION TO COMPEL
PAYMENT OF OVERTIME RE: UNEARNED WAGES

____ NOW COMES Plaintiff, and others similarly situated, seeking the above relief for the following reasons:

1. During his period of unfitness for duty, Plaintiff was paid overtime wages for the duration of the contract under which he was serving.
2. Overtime, was not included in the aforesaid unearned wage.
3. Plaintiff requests a ruling that he is so entitled to overtime wages commensurate with his entitlement to unearned wages.
4. Plaintiff has calculated the amount for which he is entitled, otherwise, Plaintiff would be satisfied if Defendant just provided the overtime information paid Plaintiff's replacement man for the duration of the contract under which he replaced Plaintiff, thus, leaving no dispute as to the exact amount owing.

WHEREFORE Plaintiff prays this Honorable Court order Defendant to pay overtime wages commensurate with his unearned wage entitlement, and the matter thereafter proceed with discovery towards ultimate class certification.

O'BRYAN BAUN COHEN KUEBLER
KARAMANIAN

/s/ Dennis M. O'Bryan

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DATED: May 13, 2008

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 13th day of May, 2008 the foregoing was filed through the Court's ECF Filing System and will be served on all parties through the Court's ECF system.

/s/ Dennis M. O'Bryan
